

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:07-cv-00339-W**

**CLEAR BLUE, INCORPORATED, a North  
Carolina corporation,**

**Plaintiff,**

**vs.**

**CLEAR!BLUE, INC., a Michigan limited  
liability company (sued as “CLEAR!BLUE,  
INC., a Michigan corporation”),**

**Defendant.**

**ORDER**

THE MATTER is before the Court on Defendant’s Motion to Vacate (Doc. No. 11) this Court’s October 15, 2007, Order reassigning this case to the Honorable United States Magistrate Judge David C. Keesler. For the reasons stated in Defendant’s Motion and for good cause shown pursuant to Rule 73(b) of the Federal Rules of Civil Procedure, the Court will GRANT the motion.<sup>1</sup>

IT IS, THEREFORE, ORDERED that Defendant’s Motion to Vacate (Doc. No. 11) is GRANTED. The Court’s Order dated October 16, 2007, (Doc. No. 10) is hereby VACATED. This matter is reassigned to the undersigned judge.

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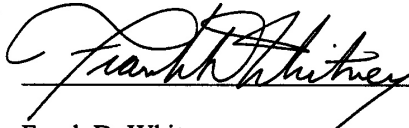
<sup>1</sup>The Court notes for the record that, prior to entering the Order referring the case to Magistrate Judge Keesler, the Court contacted defense counsel via telephone to inquire into the consent represented in the Certification of Initial Attorney Conference and Discovery Plan. The Court conducted this inquiry because of the inconsistency with the prior filing of Defendant refusing to consent to magistrate judge jurisdiction. Defense counsel failed to inform the Court following that telephone inquiry that it did not consent. Moreover, defense counsel waited until more than two weeks after entry of the order referring this case to Magistrate Judge Keesler to make its motion objecting to such referral. The Court therefore finds that, although this motion is meritorious, it could have been avoided had defense counsel given prompt attention to the Court’s inquiry.

IT IS FURTHER ORDERED that the Initial Scheduling Order and the Standing Order Governing Civil Case Management (Doc. No. 2 at 3:07-mc-47) shall govern all aspects of this case. The deadlines set forth by Magistrate Judge Keesler in the Pretrial Order and Case Management Plan (Doc. No. 12) shall remain in effect. The Clerk is DIRECTED to set the following additional deadlines:

1. A hearing on all dispositive motions during the week of August 4-8, 2008;
2. Final Pretrial Conference during the week of August 25-29, 2008; and
3. Trial during the Court's Mixed Trial Term to commence on September 8, 2008.

IT IS SO ORDERED.

Signed: November 5, 2007

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney  
United States District Judge

